

7-10-1974

## Price Limitation

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OFFICE OF THE ATTORNEY GENERAL

**Department of Justice**

555 CAPITOL MALL, SUITE 550  
SACRAMENTO 95814

**FILED**  
In the office of the Secretary of State  
of the State of California

JUL 10 1974

EDMUND G. BROWN Jr., Secretary of State

By Cashmere M. Sanderson  
Deputy Secretary of State

July 9, 1974

Honorable Edmund G. Brown, Jr.  
Secretary of State  
111 Capitol Mall  
Sacramento, California 95814

Re: Initiative - Statute - Price Limitation

Dear Mr. Brown:

Pursuant to the provisions of section 3507 of the Elections Code, you are hereby informed that on this day we mailed to Mr. Patrick H. O'Shaughnessy and Ms. Bunny Roth, as proponents, the following title and summary.

PRICE LIMITATION. INITIATIVE STATUTE. Amends Commercial Code to totally immobilize prices charged for food, services, interest rates on loans, or for sale or rental of every type of personal property beginning January 15, 1975. Prohibits any business from charging higher than lowest price charged for any item described above during 1974, with certain exceptions. Provides for price increases pursuant to stated conditions, formula and schedule; price setting for new items; hearings before Department of Industrial Relations; criminal penalties; prosecution by Attorney General; payment to informers. Permits legislative repeal or amendment after July 1, 1978. If the proposed initiative is adopted, undefined additional financing from state sources will be required in the amount of more than \$15,000,000 per year.

Enclosed herewith is a declaration of mailing thereof, and a copy of the proposed measure.

Very truly yours,

EVELLE J. YOUNGER  
Attorney General

  
J. M. SANDERSON  
Deputy Attorney General

JMS:PH  
Encs.

DECLARATION OF SERVICE BY MAIL

I, Pauline Hutson, declare as follows:

I am a citizen of the United States, over the age of 18 years and not a party to the within action; my place of employment and business address is: 555 Capitol Mall, Suite 550, Sacramento, California 95814.

On July 9, 1974, I served the attached Letter to Secretary of State in re the title and summary and the proposed initiative.

by placing a true copy thereof in an envelope addressed to the persons named below at the address set out immediately below each respective name, and by sealing and depositing said envelope in the United States Mail at Sacramento, California, with postage thereon fully prepaid. There is delivery service by United States Mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed:

Mr. Patrick H. O'Shaughnessy  
76 Third Street, No. 725  
San Francisco 94103

Ms. Bunny Roth  
317 Tenth Street  
San Francisco, CA

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 9, 1974, at Sacramento, California 95814.

*Pauline Hutson*

Proposed Amendment  
To The  
COMMERCIAL CODE OF THE STATE OF CALIFORNIA

ARTICLE XI

Part Two

1 CALIFORNIA FOUNDATION FOR ECONOMIC JUSTICE  
2 76 Third Street #725  
3 San Francisco, California 94103  
4 Telephone: (415) 362-9210  
5

6 REQUEST TO THE ATTORNEY GENERAL FOR TITLE  
7 AND SUMMARY OF PROPOSED INITIATIVE MEASURE  
8  
9

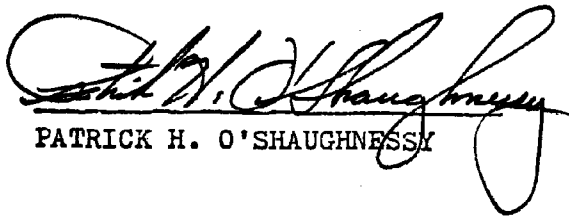
10 TO THE ATTORNEY GENERAL OF CALIFORNIA:  
11

12 We, the undersigned, being the proponents of the attached  
13 initiative measure, hereby submit the draft of the measure and  
14 request that you prepare a title and a summary of its principal  
15 points and purposes.

16 The foregoing is submitted pursuant to Article IV, Section  
17 1 of the Constitution of the State of California.  
18

19 Dated: March 22, 1974.  
20

21 Signed:

  
PATRICK H. O'SHAUGHNESSY

22  
23  
24  
25  
26   
27 BUNNY ROTH  
28  
29  
30  
31  
32

INITIATIVE MEASURE TO BE SUBMITTED  
DIRECTLY TO THE ELECTORS

Proposed Amendment

To The

COMMERCIAL CODE OF THE STATE OF CALIFORNIA

ARTICLE XI

Part Two

The following provisions are enacted as a contract between the Government of the State of California and the citizens of this State and shall continue to obtain until at least July 1, 1978. On or after this date the Legislature may modify or repeal this Part, but until such legislative action every provision appearing herein shall continue in its effect.

Section 11105. Beginning January 15, 1975, prices charged for food, for services including sporting events and entertainment, interest rates upon loans, and prices charged for the sale or rental of every type of personal property shall be totally im-

mobilized, and no business shall charge a higher price for any item within the foregoing classifications than the <sup>lowest price</sup> ~~price which~~ charged for any such item during the 1974 calendar year, but was charged upon the date when this article was filed for delivery disregarding publicly advertized discount sales of less than seven days duration. to the Attorney General for his ballot initiative summary. The immobilization shall extend to every transaction, whether conducted within this State or outside it, concerning any goods whereby a reasonable inquiry would clearly disclose them to be destined for final sale within this State. But any right or privilege afforded any California business by any provision of this Part shall be equally available to those who conduct their business outside this State. But no business shall increase its prices without express permission of the Government of this State.

1       Section 11106. Every business may increase its prices in  
2 accordance with the following provisions:

3           (a) Wage increases to employees shall allow the employer  
4 to increase his prices in an amount sufficient to recover one hun-  
5 dred and twenty-five per cent of the annual amount by which his  
6 payroll has been increased, subject to the limitation set forth in  
7 subdivision (c) of this Section. But the compensation of each em-  
8 ployee whose wages are used in compiling the added amount of the  
9 payroll shall not be less than one hundred and twenty-five dollars  
10 (\$125.00) nor more than three hundred dollars (\$300.00) for a for-  
11 ty-hour work week.

12           (b) When a business hires a new employee at a wage of not  
13 less than one hundred and twenty-five dollars (\$125.00) nor more  
14 than three hundred dollars (\$300.00) for a forty-hour work week,  
15 such business may increase its prices in an amount sufficient to  
16 recover one hundred and fifty per cent of the annual amount by  
17 which its payroll has been increased, subject to the limitation  
18 set forth in subdivision (c) of this Section.

19           (c) During no twenty-four month period beginning with the  
20 enactment date of this Part shall any business increase its prices  
21 pursuant to this Section by more than fifteen per cent.

22  
23       Section 11107. Notwithstanding any other provision of this  
24 Part, every business shall have the right to increase its prices  
25 in an amount sufficient to provide for an adjusted gross income of  
26 not less than fifteen thousand dollars (\$15,000.00) per year. Ev-  
27 ery business shall also have the right to increase its prices in  
28 an amount sufficient to allow its adjusted gross income to equal  
29 the arithmetical product of the median wage of all its employees,  
30 in accordance with the following table:

31           \* \* \* \* \*

32           \* \* \* \* \*

	<u>Number of Employees</u>	<u>Ratio of Adjusted Gross Income to Median Employee Earnings</u>
1		
2		
3	Five or less . . . .	300 per cent
4	6 to 15 . . . .	500 per cent
5	16 to 25 . . . .	600 per cent
6	26 to 50 . . . .	800 per cent
7	51 to 100 . . . .	1000 per cent
8	101 to 300 . . . .	2000 per cent
9	301 to 500 . . . .	3000 per cent
10	501 to 1000 . . . .	5000 per cent
11	1001 to 2000 . . . .	10,000 per cent
12	2001 to 3000 . . . .	20,000 per cent
13	3001 to 4000 . . . .	30,000 per cent
14	4001 to 5000 . . . .	40,000 per cent
15	5001 to 6000 . . . .	50,000 per cent
16	6001 to 7000 . . . .	60,000 per cent
17	7001 to 8000 . . . .	70,000 per cent
18	8001 to 9000 . . . .	80,000 per cent
19	9001 to 10,000 . . . .	90,000 per cent
20	More than 10,000 . . . .	100,000 per cent

21

22 In application of the foregoing table the employer's ad-

23 justed gross income shall be the amount received from all sources,

24 both from within and without this State. In the case of a corpor-

25 ation which is controlled by another corporation the adjusted

26 gross income shall be that of the parent and subsidiary when com-

27 bined. In the case of a closely held corporation which is con-

28 trolled by ten or fewer shareholder's the adjusted gross income of

29 the corporation shall not be deemed to be less than the personal

30 adjusted gross income of any shareholder whose votes might be nec-

31 essary for control of the corporation. Any business which in-

32 creases its prices pursuant to this Section shall not be allowed



1 a further increase under Section 11106 for a period of two years.

2  
3 Section 11108. When a business seeks leave to increase  
4 its prices pursuant to any provision of this Part it shall file a  
5 petition with the State Department of Industrial Relations in ac-  
6 cordance with such rules as the Department shall prescribe, and  
7 there shall be a filing fee of one hundred and twenty-five dollars  
8 (\$125.00). Determination upon whether a petitioner shall have  
9 leave to increase its prices, and the extent of the increase to  
10 be allowed, shall initially be made by an officer designated by  
11 the Department to rule informally on such matters, and the Depart-  
12 ment shall also by rule prescribe the data which shall accompany  
13 each type of price-increase petition upon its filing.

14  
15 Section 11109. If the petitioner is dissatisfied with the  
16 officer's determination he may require that the matter be decided  
17 by an independent hearing officer to be provided by the Department  
18 of General Services. Such hearings shall be in conformity with  
19 the Administrative Procedure Act as the Act appears in the Govern-  
20 ment Code beginning at Section 11500, and such hearings shall fur-  
21 ther conform to the following requirements:

22 1. The petitioner shall be required to pay the cost of  
23 the hearing officer's services, and no hearing shall be calendared  
24 until payment is deposited to meet the cost of the hearing offi-  
25 cer's services for a period of two days.

26 2. The Department of Industrial Relations shall through  
27 an independent legal officer oppose the relief sought by the peti-  
28 tioner. The petitioner shall be given written notice at the time  
29 his demand is filed that if the hearing officer's decision pro-  
30 vides the petitioner no relief beyond that which was already of-  
31 fered him by the Department of Industrial Relations, the petition-  
32 er shall be required to compensate the Department for its costs

1 incurred in assigning counsel to the matter, which costs shall not  
2 exceed seventy-five dollars (\$75.00) for each hearing day.

3 3. Upon submission of the matter the hearing officer  
4 shall file his decision within forty-five days and the decision  
5 shall be supported both by written findings of fact and conclu-  
6 sions of law. Within thirty days of receiving the hearing offi-  
7 cer's decision the Department shall enter its formal ruling upon  
8 the petition. No finding by the hearing officer shall be disturb-  
9 ed either by the Department or upon judicial review if the finding  
10 is supported by any substantial evidence.

11  
12 Section 11110. When a price increase is granted pursuant  
13 to any provision of this Part the increase shall be apportioned  
14 among every product and service marketed by the petitioner, the  
15 price of each item being increased in the same proportion which  
16 its total sales revenue during the previous year bears to the  
17 petitioner's gross receipts during the same period.

18  
19 Section 11111. When leave to increase prices is granted  
20 to any petitioner who sells tangible goods to other businesses for  
21 resale by the customer, before the increase is officially approved  
22 the successful petitioner shall first file its revised price list  
23 with the Department of Industrial Relations along with a mailing  
24 list of each of the petitioner's customers. Upon determining that  
25 each price conforms to the requirements of Section 11110, the  
26 Department shall prepare certified copies of the revised price  
27 list as approved and shall cause them to be mailed to the peti-  
28 tioner's customers, advising each customer that he thereby re-  
29 ceives leave of the Department to increase his own price of each  
30 item appearing on the list by no more than the amount indicated.  
31 Costs incurred by the Department in administering the provisions  
32 of this Section shall be paid by the petitioner, and final leave

1 for the increase shall not be entered until such costs have been  
2 paid in full.

3  
4 Section 11112. When a business seeks to introduce a new  
5 product, service or brand name to its line of goods or services  
6 it shall file a petition with the Department of Industrial Rela-  
7 tions in accordance with such rules as the Department shall pre-  
8 scribe, and there shall be a filing fee of one hundred and twenty-  
9 five dollars (\$125.00). The matter shall initially be referred to  
10 an officer designated by the Department to evaluate such petitions  
11 and the officer shall have expertise in the field which embraces  
12 the new product or service. If the officer determines that the  
13 new product or service is substantially similar to others current-  
14 ly being marketed, its entry price within the petitioner's busi-  
15 ness shall be the average amount asked by the petitioner's compe-  
16 titors. If the new product or service is determined to be unique  
17 in that no business is then marketing a similar product or service  
18 within this State, the petitioner may then set his own price with-  
19 out restriction by any provision of this Part. If the petitioner  
20 is dissatisfied with the officer's determination he may require  
21 that the matter be decided by an independent hearing officer, and  
22 every procedure and condition for such a hearing shall then be  
23 identical to hearings demanded pursuant to Section 11109 by busi-  
24 nesses seeking leave for a general price increase.

25  
26 Section 11113. A manufacturer or wholesale business  
27 which sells tangible goods to retailers may insulate its new cus-  
28 tomers from having to comply with the provisions of Section 11112  
29 by itself filing a wholesaler petition with the Department of In-  
30 dustrial Relations. The petition shall conform to such require-  
31 ments as the Department shall prescribe, and there shall be a fil-  
32 ing fee of one hundred and twenty-five dollars (\$125.00). The

1 petition shall be accompanied by an inventory of every item which  
2 the petitioner regularly sells to retailers, and only such items  
3 as are then being regularly sold by the petitioner to such cus-  
4 tomers shall be within reach of a petition filed pursuant to this  
5 Section. The matter shall be referred to an officer designated by  
6 the Department to evaluate such petitions, and the officer shall  
7 initially determine the average retail price currently being ask-  
8 ed by retailers for each item which appears upon the wholesaler  
9 petitioner's inventory. Each such price shall be entered upon the  
10 inventory, which shall be filed by the Department as part of the  
11 petition. If the petitioner is dissatisfied with the officer's  
12 determination he may require that the matter be decided by an in-  
13 dependent hearing officer, and every procedure and condition for  
14 such a hearing shall then be identical to hearings demanded pursu-  
15 ant to Section 11109 by businesses seeking leave for a general  
16 price increase. When the matter is finally determined and the  
17 petitioner acquires a new retailer customer he may prepare in  
18 triplicate such portion of the inventory on file as is applicable  
19 to the new customer's order and present it to the Department for  
20 certification. Upon receipt of a fee of three dollars (\$3.00)  
21 the Department shall certify the partial inventory, which shall  
22 expressly advise the retailer that he is permitted without further  
23 action on his part to charge any price which does not exceed the  
24 stated maximum for each item. The original shall become part of  
25 the wholesaler's file with the Department, one copy shall be mail-  
26 ed by the Department to the retailer, and one copy shall be re-  
27 turned to the petitioner.

28  
29 Section 11114. The Attorney General shall have authority  
30 to initiate criminal proceedings for any price increase which is  
31 effected in violation of any provision of this Part, including  
32 quantitative or qualitative changes to any product or service, and

1 the defendant's exercise of ordinary care shall not be a good de-  
2 fense. Every person or business convicted under this Section  
3 shall be sentenced by a mandatory fine of fifteen thousand dol-  
4 lars or ten times the sum of the unlawful increases, whichever  
5 amount is higher. When a person provides information to the At-  
6 torney General which results in a conviction under this Section  
7 he shall receive one-half of the fine imposed, but no public em-  
8 ployee who acquires such information in connection with his em-  
9 ployment shall be entitled to payment of a reward.

10  
11 Section 11115. Each provision of this Part is enacted  
12 to effect its purpose independently of every other provision, and  
13 the invalidation of any portion of this Part shall not be con-  
14 strued to compel repeal of those provisions which remain. Every  
15 provision set forth within this Part shall be inoperative to the  
16 extent that it conflicts with any affirmative regulation made by  
17 the Executive Branch of the Government of the United States when  
18 acting pursuant to the authority created by the Economic Stabili-  
19 zation Act of 1970 (PL 91-379) as amended. But in those areas  
20 where the Executive Branch has either remained silent or has re-  
21 moved a previous regulation from further effect the provisions of  
22 this Part shall be controlling.

23  
24 \* \* \* \* \*  
25 \* \* \* \* \*  
26 \* \* \* \* \*  
27 \* \* \* \* \*  
28 \* \* \* \* \*

July 11, 1974

TO THE REGISTRARS OF VOTERS AND COUNTY CLERKS:

Pursuant to Section 3507 of the Elections Code, there is transmitted herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

PRICE LIMITATION. INITIATIVE STATUTE.

Circulating and Filing Schedule:

1. Minimum number of signatures required . . . . . 325,504  
Constitution IV, 22(b).
2. Official Summary Date . . . . . 7/9/74  
Elections Code Section 3507.
3. Petition Sections:
  - a. First day Proponent can circulate Sections for  
signatures. . . . . 7/9/74  
Elections Code Section 3507.
  - b. Proponent may file petition sections with the Registrar of  
Voters at any time, and at as many times as he wishes during  
the 150 day period. The Registrar of Voters must determine  
within 30 days of any filing the number of qualified electors  
who have signed the petition.  
Elections Code Section 3520(a)(b).
  - c. Each Registrar of Voters where Proponents have filed any  
section of the petition shall transmit his Certificate to  
the Secretary of State. The Certificate is to show the num-  
ber of valid signatures determined as of that date. The  
following are the dates on which the Certificates must be  
sent to the Secretary of State:  
Elections Code Section 3520(c).

60 Day . . . . . 9/10/74\*

90 Day . . . . . 10/7/74

120 Day . . . . . 11/6/74

140 Day . . . . . 11/26/74

\*date adjusted for official deadline which falls on a  
Saturday, Sunday or Holiday.  
Code of Civil Procedure, Section 12.

## 3. Petition Sections (continued)

- d. Last day Proponent can circulate and file with the  
County . . . . .12/6/74  
Elections Code Sections 3507, 3520(a).
- e. Last day for County to transmit Certificate as to number  
of valid signatures on Initiative Petition . . . .1/3/75\*  
Elections Code Section 3520(c).

## 4. Campaign Statements

- a. If the measure qualifies for the ballot:  
Last day for Proponent to file a Statement of Receipts  
and Expenditures for period ending 1/31/75 . . . .2/7/75  
(If the Secretary of State qualified the measure for the  
ballot on a date other than 1/3/75, the last day is the  
35th calendar day after the date the measure qualified.)  
Elections Code Section 11552(a).
- b. If the measure does not qualify for the ballot:  
Last day for Proponent to file a Statement of Receipts  
and Expenditures for period ending 1/3/75. . . .1/10/75  
Elections Code Section 11552(b).

## 5. The Proponents of the above measure are:

Mr. Patrick H. O'Shaughnessy  
76 Third Street, No. 725  
San Francisco, CA 94103

Ms. Bunny Roth  
317 Tenth Street  
San Francisco, CA



PHILLIP J. MENDES  
Chief, Elections Division

PJM:msl

NOTE TO PROPONENT: Your attention is directed to Elections Code  
Sections 3500.1, 3502, and 3502.5 for appropriate format and  
type considerations in printing, typing or otherwise preparing  
your initiative petition for circulation and signing.

Title: <u>PRICE LIMITATION</u>		Number Signatures Required <u>325,504</u>
Official Title and Summary Date <u>7-9-74</u>	Date (Not) Qualified For _____ Election _____	Number Signatures Certified <u>0</u>

[illegible]



[illegible]

County	60 DAY			90 DAY			120 DAY			140 DAY			180 DAY			TOTAL SIG.
	Number	Date	Filed	Number	Date	Filed	Number	Date	Filed	Number	Date	Filed	Number	Date	Filed	
San Joaquin	2	9/10	9/12	2	10/9	10/10										
San Luis Ob.																
San Mateo																
Santa Barbara																
Santa Clara																
Santa Cruz																
Shasta																
Sierra																
Siskiyou																
Solano																
Sonoma																
Stanislaus																
Sutter																
Tehama																
Trinity																
Tulare																
Tuolumne																
Ventura																
Yolo																
Yuba																
SIGNATURES SUB-TOTAL																